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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,036	08/22/2003	Norio Shimozono	16869N-090300US	9277
20350	7590	03/04/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			BENGZON, GREG C	
		ART UNIT	PAPER NUMBER	2144

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/646,036	SHIMOZONO ET AL.
	Examiner Greg Bengzon	Art Unit 2144

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 August 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

This application has been examined. Claims 1-12 are pending.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

The effective date of the subject matter in the claims in this application is June 18, 2003.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on August 22, 2003 and September 3, 2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Terrell et al. (US Publication 2003/0189936 ), hereinafter referred to as Terrell.

With respect to Claim 7, Terrell discloses a network system comprising: a computer; a switch that is connected to said computer via a network; a first storage device that is connected to said switch via the network; and a second storage device that is connected to said switch via the network; (Figures 1-2, Page 6 Paragraph 69, Page 7 Paragraph 74, Page 8 Paragraph 84) wherein said computer issues a read request for the data stored in said first storage device; when said switch receives said read request, if the data stored in said first storage device is stored in said second storage device, (Figure 17 Item 1726) said switch converts said read request for the data stored in said first storage device into a data read request to said second storage device, and then transmits the converted data read request to said second storage device, whereas if the data stored in said first storage device is not stored in said second storage device, (Figure 17 Item 1732) said switch transmits said read request to said first storage device without converting said read request for the data; (Figures 17-20, Page 41 Paragraph 260-263) when receiving said data read request, said second storage device transfers, to said switch, data corresponding to the received data read request; and when receiving the data, said switch transfers the received data to said computer as data transferred from said first storage device. (Page 20 Paragraph 152, Page 42 Paragraph 264)

With respect to Claim 8, Terrell discloses a network system according to claim 7, wherein said switch has information indicating whether or not data stored in said first storage device is stored in said second storage device. (Figure 17 Item 1726, 1732, Page 41 Paragraph 260-263)

With respect to Claim 9, Terrell discloses a network system according to claim 8, wherein if the data stored in said first storage device is not stored in said second storage device, said switch transfers the data that has been transferred from said first storage device, to said second storage device in response to said read request for the data, and then updates said information.(Page 15 Paragraph 119 Paragraph 124)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6,10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terrell et al. (US Publication 2003/0189936 ), hereinafter referred to as Terrell, in view of Moshfeghi et al. (US Patent 6779119 ), hereinafter referred to as Moshfeghi .

With respect to Claim 1, Terrell discloses a network system comprising: a computer; a switch that is connected to said computer via a network; a first storage device that is connected to said switch via the network; and a second storage device that is connected to said switch via the network; (Figures 1-2, Page 6 Paragraph 69, Page 7 Paragraph 74, Page 8 Paragraph 84) said computer issues a read request for the data stored in said first storage device; when receiving said read request, said switch converts said read request for the data stored in said first storage device into a data read request to said second storage device, (Page 14 Paragraph 118, Page 15 Paragraph 119, Page 39 Paragraph 252) and then transmits the converted data read request to said second storage device; (Figure 17-20, Page 41 Paragraph 260-263) when receiving said data read request, said second storage device transfers data corresponding to the received data read request to said switch; and when receiving the data, said switch transfers the received data to said computer as data transferred from said first storage device. (Page 8 Paragraph 83, Page 10 Paragraph 98, Page 14 Paragraph 115-116, Page 19 Paragraph 148-151, Page 42 Paragraph 264)

With respect to Claim 2, Terrell discloses a network system according to claim 1, further comprising a second computer that is connected to said switch; wherein said switch transfers data stored in said first storage device to said second storage device according to an instruction from said second computer.(Page 15 Paragraph 119)

With respect to Claim 3, Terrell discloses a network system according to claim 1, wherein: when converting the data read request to said first storage device into the data read request to said second storage device, (Page 14 Paragraph 118, Page 15 Paragraph 119, Page 39 Paragraph 252) said switch converts information indicating a source of said data read request into another information, and then transmits the converted data read request including the another information to said second storage device; (Figures 17-20, Page 41 Paragraph 260-263) and when receiving, from said second storage device, data corresponding to the converted data read request, said switch converts said another information included as a destination of the data into information used for said computer. (Page 8 Paragraph 83, Page 10 Paragraph 98, Page 14 Paragraph 115-116)

With respect to Claim 4, Terrell discloses a network system comprising: a computer; a switch that is connected to said computer via a network; a first storage device that is connected to said switch via the network; and a second storage device that is connected to said switch via the network; said switch provides said computer with a third storage device corresponding to said first storage device, said third storage device being a virtual storage; (Figures 1-2, Page 6 Paragraph 69, Page 7 Paragraph 74, Page 8 Paragraph 84, Page 19 Paragraph 148-151) said computer issues a data read request to said third storage device; when receiving said data read request, said switch converts the data read request to said third storage device into a data read request to said second storage device, and then transmits the converted data read

request to said second storage device; (Figures 17-20, Page 41 Paragraph 260-263) when receiving said data read request, said second storage device transfers, to said switch, data corresponding to the received data read request; and when receiving the data, said switch transfers the received data to said computer as data transferred from said third storage device. (Page 19 Paragraph 148-151, Page 20 Paragraph 152, Page 42 Paragraph 264)

With respect to Claim 5, Terrell discloses a network system according to claim 4, wherein a domain address that is the same as that of said second storage device is assigned to said third storage device that is the virtual storage. (Page 20 Paragraph 152)

With respect to Claim 6, Terrell discloses a network system comprising: a computer; a first storage device that is connected to said computer via a network; and a second storage device that is connected to said computer via the network; wherein said second storage device comprises a switch unit that is connected to said computer and said first storage device via the network, and a storage unit that is connected to said switch unit via an internal network; (Figures 1-2, Page 6 Paragraph 69, Page 7 Paragraph 74, Page 8 Paragraph 84) said computer issues a read request for the data stored in said first storage device; when receiving said read request, said switch unit converts the read request for the data stored in said first storage device into a data read request to said storage unit, and then transmits the converted data read request to

said storage unit; when receiving said data read request, said storage unit transfers, to said switch unit, data corresponding to the received data read request; and when receiving the data, said switch unit transfers the received data to said computer as data transferred from said first storage device. (Page 19 Paragraph 148-151, Page 20 Paragraph 152, Page 42 Paragraph 264)

With respect to Claim 10, Terrell discloses a network system according to claim 9, wherein said switch transfers the data that has been transferred from said first storage device, to said second storage device, and then updates said information. (Page 15 Paragraph 123-124, Page 16 Paragraph 126-129)

With respect to Claim 11-12, the Applicant discloses a switch for the methods described in Claims 1-10. Claims 11-12 are rejected on the same basis as Claims 1-10.

However Terrell does not disclose certain features of the invention, as follows.

With respect to Claims 1, 4,6, and 11, Terrell does not disclose the method and switch wherein said switch beforehand transfers data stored in said first storage device to said second storage device.

With respect to Claim 10, Terrell does not disclose the method wherein, if an amount of free storage capacity in said second storage device is not enough to store

the data, said switch deletes some amount of data currently stored in said second storage device in a manner that data with the least frequency of use by said computer is deleted first.

Moshfeghi discloses performance optimization techniques that are based on a history of users' usage patterns. The system anticipates the user's requests and using a prefetcher, acts on the anticipated request, retrieves the data, stores the desired information into cache memory. (Column 4 Lines 35-65, Column 5 Lines 20-35)

Conventional cache management techniques are used to optimize the cache potential. If , based on the user's usage pattern, it is determined that cached information is rarely re-accessed, the cached information is marked for deletion, thereby freeing the cache resources as required. (Column 6 Lines 1-10)

Terrell and Moshfeghi are analogous art because they present concepts and practices regarding performance and content management. The Examiner respectfully suggests that at the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the teachings of Moshfeghi into Terrell. The combination of Moshfeghi into Terrell would enable the system of Terrell to 1) transferring data from one storage device to another storage device prior to receiving a request from the user, and 2) free up storage memory based on the users' usage pattern such that the least accessed information is deleted first. The suggested motivation for doing so would be, as Moshfeghi suggests, to improve user perceived

and actual response time, particularly when the user is anxious to receive the information, such as when performing repetitive tasks. (Column 1 Lines 55-65)

Thus it would have been obvious to combine the teachings of Moshfeghi into the methods and system of Terrell in order to obtain the invention as described in Claims 1-6, 10-12.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclosed PTO-892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (571)272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcb



WILLIAM A. CUCHLINSKI, JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600